

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

Randall Smith,

Plaintiff,

v.

**SUPPLEMENTAL ORDER**  
Civil No. 06-2091 ADM/AJB

Michael J. Astrue,  
Commissioner of the Social Security  
Administration,

Defendant.

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Jennifer G. Mrozik, Esq., Northwest Disability Services, Roseville, MN, on behalf of Plaintiff.

Lonnie F. Bryan, Esq., Assistant United States Attorney, Minneapolis, MN, on behalf of Defendant.

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This matter is before the undersigned United States District Judge pursuant to Defendant Michael J. Astrue, Commissioner of the Social Security Administration's ("Commissioner") Objections [Docket No. 30] to Magistrate Judge Arthur J. Boylan's Report and Recommendation ("R&R") [Docket No. 21]. The background facts and procedural history of this case are well documented in the R&R, which is incorporated herein by reference.

Finding that the record overwhelmingly supports a finding of disability, the R&R recommends that: (1) Plaintiff Randall Smith's Motion for Summary Judgment [Docket No. 5] be granted; (2) the Commissioner's Motion for Summary Judgment [Docket No. 17] be denied; and (3) this case be remanded to the Commissioner for an award of benefits. The Commissioner does not object to these recommendations. Instead, he objects to a comment in dicta in the R&R that could be interpreted to suggest "that 'obduracy,' by itself, may be a proper basis for awarding [disability insurance] benefits." Objections at 1. Because the Commissioner does not

object to the R&R's actual recommendations, it is unnecessary for this Court to address the dicta in the R&R. The R&R's recommendations are adopted insofar as they rely on the unchallenged finding that the record overwhelmingly supports a finding of disability.

Based upon the foregoing, and all the files, records, and proceedings herein, **IT IS HEREBY ORDERED** that:

1. The R&R's [Docket No. 21] recommendations are **ADOPTED**;
2. Defendant's Objections [Docket No. 30] are **OVERRULED**;
3. Plaintiff's Motion for Summary Judgment [Docket No. 5] is **GRANTED**;
4. Defendant's Motion for Summary Judgment [Docket No. 17] is **DENIED**;
5. This case is **REMANDED** to the Defendant for an award of benefits.

**LET JUDGMENT BE ENTERED ACCORDINGLY.**

BY THE COURT:

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s/Ann D. Montgomery  
ANN D. MONTGOMERY  
U.S. DISTRICT JUDGE

Dated: May 22, 2007.